

**\*\*PLEASE NOTE THAT THE DEADLINE FOR SUBMITTING COMMENTS HAS BEEN CHANGED TO JANUARY 11, 2011.**

**Agency:**

West Virginia Offices of the Insurance Commissioner

**Action:**

Request for Comment

**Subject:**

Health Insurance Exchange Planning and Development

**Dates:**

November 29, 2010 – January 11, 2011

**To Comment:**

Comments must be received by January 11, 2011 and should be sent to:

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Comments may also be sent electronically to:

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**Summary:**

This notice is a request for comment regarding West Virginia's planning and development of the health insurance exchange. The West Virginia Offices of the Insurance Commissioner (OIC) was designated by former Governor Joe Manchin III to research and plan for West Virginia's health insurance exchange. A framework for the health insurance exchange has been laid out in provisions of the Patient Protection and Affordable Care Act (ACA), enacted on March 23, 2010. The United States Department of Health and Human Services (HHS) issued a national request for comment, which took place from August 3, 2010 through October 4, 2010.

**Solicitation of Comments:**

The OIC is inviting public comment to aid in the development of standards for establishment and operation of the Exchanges, to address other Exchange-related provisions in Title I of the Affordable Care Act, and to inform the development of community of interest groups on specific exchange related policies. The OIC is committed to making exchange planning and development a transparent and inclusive process. The OIC is interested in comments from all interested parties. To ease the analysis of the comments received, please indicate the questions to which you are responding or the subject matter that you are addressing.

**Recommended Comment Focus:**

Following are some specific areas where the OIC is particularly interested in getting stakeholder input:

*Exchange Goals:*

- A mission statement outlines the fundamental purpose of an entity. What mission statement would you recommend for the West Virginia health insurance exchange?

- A vision statement outlines the desired future state in terms of an entity's fundamental objectives. What vision statement would you recommend for the West Virginia health insurance exchange?
- What policy goals should West Virginia's health insurance exchange work to fulfill? What realistic objectives should West Virginia's health insurance exchange work to fulfill?

#### *Structure and Governance:*

- After careful review of the exchange governance options, for the following reasons, the OIC recommends governance of the WV exchange should be attached to the OIC. It is fundamentally important that the exchange operate in a fiscally efficient manner so as to not drive up consumer premiums through exchange fees. The OIC and its staff have years of experience in the central subject matter of the exchange, including existing infrastructure which could provide crucial regulatory and administrative support to the exchange. This existing infrastructure includes, but is not limited to: Rates and Forms; Consumer Services; Agent Licensing; Financial Conditions and Market Conduct.

The importance is also recognized of creating a clear distinction between the OIC's primary role as insurance regulator and the exchange's more narrow policy role. To achieve this end, the exchange should be given a high degree of autonomy through an exchange governing board. This governance structure would ensure administrative efficiency by availing the resources of the OIC to the exchange, but also ensure that no conflict of interest arises between the OIC's regulatory functions and the exchange's policy objectives.

Given this brief outline of the OIC's exchange governance proposal, what issues should be further addressed?

- Regarding the Exchange Board, what skills sets, experience, expertise, or constituency should be represented on the board?
- What factors should the West Virginia exchange consider in approaching the regional exchange or state to state administrative agreements?

#### *Exchange Planning Process:*

- What metrics of data are important for the state to collect in order to be able to make sound policy decisions on various exchange policies?
- What policy considerations are most important for the exchange to be successful and how should these policy areas be researched?
- *What kinds of guidance or information would be helpful to stakeholders (plans employers, consumers, and other groups or sectors) as they provide input into the exchange planning process?*
- *What exchange terms or provisions require additional clarification?*

#### *Functions:*

- Under the ACA, an Exchange is responsible for performing a specified list of functions. How should these functions operate? Beyond these functions specifically listed, are there additional functions that should be considered for an Exchange? (See ACA sections 1311, 1411, and 2201)
- The ACA requires an Exchange to establish a "Navigator" program to conduct outreach for and assist individuals and employers with enrollment. Should navigators be licensed? How should navigators be compensated in relation to producers? What issues should be considered in establishing a "Navigator" program? (See PPACA section 1311)

- What specific planning steps should the Exchanges undertake to ensure that they are accessible and available to individuals from diverse cultural origins and those with low literacy, disabilities, and limited English proficiency?
- What should the role of the producer be in the exchange? What factors should drive compensation for a producer? From what source should the producer be compensated (carrier, Exchange, consumer)?
- Should a portal be developed for third party case management of consumer insurance purchase in the exchange? What should be considered in the development of this tool?

#### *Enrollment and Eligibility:*

- Under the ACA, individuals and small employers are eligible to participate in an Exchange in 2014. Small employer may be defined as 50 or less or 100 or less employees. Should the definition of small employer be 50 or 100 employees for initial Exchange participation in 2014? (See ACA section 1304 and 1312)
- The ACA allows states to open Exchange eligibility to large employers starting in 2017. Should large employers (greater than 100 employees) be allowed to participate in an Exchange? Should there be an upper limit on large group participation in an Exchange (i.e. 200, 500, etc. employees)? (See ACA section 1312)
- Should there be participation requirements for employer groups in an Exchange (i.e. minimum share of employees participating, minimum employer contribution, limits in the range of product benefit values that may be selected by employees)?
- What are the advantages and issues associated with various options for setting the duration of the open enrollment period for Exchanges for the first year and subsequent years? What factors are important for developing criteria for special enrollment periods?
- What are some of the key considerations associated with conducting online enrollment?
- How can eligibility and enrollment be effectively coordinated between Medicaid, CHIP, and Exchanges? What steps can be taken to ease consumer navigation between the programs and ease administrative burden?

#### *Health Plan Participation:*

- Should all health plans be required to participate in an Exchange and comply with the requirements or should health plans compete or bid to participate in an Exchange?
- Should the number of benefit plans offered in an Exchange be limited or unlimited?
- Should benefit structure variability within the actuarial value levels for benefit plans offered in an Exchange be limited or unlimited? (See PPACA section 1302)
- Should Health Plans be permitted to sell coverage out of the exchange?
- What factors should the Exchange consider in reviewing justifications for premium increases from insurers seeking certification as QHPs?
- What factors are most important for consideration in establishing standards for a plan rating system?
- How best can Exchanges help consumers understand the quality and cost implications of their plan choices?

#### *Market Rules:*

- The ACA requires health plans participating in an Exchange to comply with certain requirements in areas such as marketing and network adequacy. Should the same rules exist for plans sold inside and outside an Exchange? (See PPACA section 1311)

*Risk Sharing:*

- The ACA establishes a reinsurance program in states for individual market plans sold inside and outside an Exchange between 2014 and 2016. The program is to be funded by fully-insured and self-insured plans. What issues should be considered in establishing the temporary reinsurance program? (See PPACA section 1341)
- The risk adjustment tool requires access to claims information. Discussions are currently underway concerning the development of an all payer claims database. What issues should be considered in establishing an all payer claims database?
- Under the ACA, states may merge their individual and small employer markets for rating and risk sharing. What issues should be considered regarding this option? (see PPACA section 1312)

*Outreach:*

- What kinds of consumer enrollment, outreach, and educational activities should West Virginia conduct relating to Exchanges, insurance market reforms, premium tax credits and cost-sharing reductions, available plan choices, etc?
- What outreach strategies are likely to be most successful in enrolling individuals who are eligible for tax credits and cost-sharing reductions? How can these outreach efforts be coordinated with efforts for other public programs?

*Financing:*

- An Exchange must be self sustaining financially by January 1, 2015. What funding sources should be considered? How should financial sustainability be accomplished under the exchange? (See ACA section 1311)

*Other:*

- Based on your current knowledge of a health insurance exchange and its intended purposes, do you have any suggestions on what West Virginia's health insurance exchange should be called (e.g., Mountaineer Exchange, West Virginia Connect, etc)?
- Any other comments or ideas related to implementation of an Exchange?